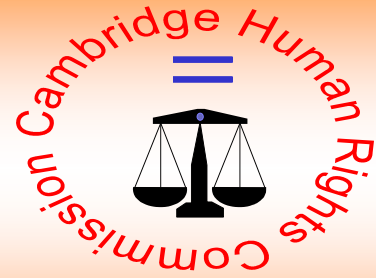


CAMBRIDGE HUMAN RIGHTS COMMISSION



DATELINE

Newsletter of the Cambridge Human Rights Commission



2004

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FAREWELL TO OUR SUMMER INTERNS

Every year the Cambridge Human Rights Commission hires Law Student Interns. They work during the summer and learn everything about case processing from intake to investigation and even mediation. This year we had a student from Houston University School of Law, Sarika Sahay and Charleen Godwin from New England School of Law (who had been working with us since last Fall). They had the opportunity to attend a Public Hearing in the state offices of the Massachusetts Commission Against Discrimination. Both have already completed their internship with us and are off to continue their studies. We wish them the best in their future!



The Cambridge Human Rights Commission is a city law enforcement agency that investigates complaints of discrimination that occur in Cambridge -- in housing, employment, education, and public accommodations. The Commission enforces two ordinances: the **Cambridge Human Rights Ordinance, chapter 2.76** and the **Cambridge Fair Housing Ordinance, chapter 14.04**. We also work with MCAD to enforce MGL chapter 151B and 151C and other chapters, the ADA, Title VII, and with HUD to enforce FFHA. These laws prohibit discrimination based on **race, color, national origin, sex, gender, physical and mental disability, sexual orientation, religion, age, family status, military status, and source of income**. The Commission also aids the City of Cambridge by educating both businesses and residents, providing community outreach, and cooperating with other city, state and federal agencies. The Commission is available to conduct workshop presentations on fair housing and employment discrimination for community groups, social service agencies, and schools. There's a staff member that speaks Vietnamese and another one that speaks Spanish, allowing the Commission to assist non-English speaking individuals.

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FROM THE DESK OF THE EXECUTIVE DIRECTOR



Quoc M. Tran

RECOGNIZING CULTURAL DIFFERENCES IN CONDUCTING AN EMPLOYMENT MEDIATION SESSION

As the clientele for mediation becomes more diverse, mediators would be well served to learn skills in addition to the traditional qualities of a mediator—neutrality, the ability to listen actively and paraphrase correctly, the ability to identify the party's interests, and the ability to effectively encourage a voluntary and mutual settlement. One increasingly important additional skill is being able to recognize and accommodate cultural differences and the intrinsic characters of disputants of different ethnic backgrounds.

Given the broad spectrum of differences regarding the world's cultures, political systems, and ways of life, a successful mediator should acquire a working knowledge of mediation participants' intrinsic characters, cultures, and past experience with governmental actions. To illustrate, consider the differences between Asian and American cultures. In 1977, two eminent sociologists, Florence and Clyde Kluckhohn, developed a model to determine the value orientations of a specific culture. According to the model, the American innate view of human nature falls into two areas. First, with Christian roots in the concept of Original Sin, many Americans see Man as basically evil (born into sin), but capable of changing and improving his situation. Second, the general inclination of the populace is to see Man as basically good, thus the concept of innocence until otherwise proven.

The Asian belief is the combination of the two views above. They see Man as being more of a mixture of good and evil, unchanging in his basic human nature. Thus, while Americans firmly believe that a man can control his own destiny and the natural world around him, Asians, by contrast, are fatalistic. They believe that their life is pre-destined and that they have little or no control over it. As a result, they tend to live in harmony with nature accepting the hybrid of goodness and evil that life carries. The influence of Buddhism is manifested in a belief that a person's karma, his good and bad deeds, may predetermine his actions. An Asian may believe that something bad or dishonored that he committed in the past life has caused his present situation. He may further believe that, if one commits a bad deed against another, the perpetrator will pay for it at some future life. Thus, living a let-live way of life while focusing on the preservation of one's honor and dignity is a cultural trait found ingrained in

many Asians. This strong faith in spiritual retribution results in an Asian's acceptance and non-action.

The cultural distinction between an American and an Asian can be seen from how the two approach an assigned task. While Americans are more concerned with punctuality, timeliness, and effective and productive use of time, Asians consider efficiency less vital than the qualitative aspect of the task. Thus, in the context of mediation, whereas the American party generally measures success and effectiveness on the expeditious use of time, the Asian party concentrates on mutual harmony and self-respect regardless of how long it takes.

An actual mediation session recently conducted at the Massachusetts Commission Against Discrimination (MCAD) illustrates these distinctions and how the mediator was successful in accommodating the parties. The case involved a Chinese Complainant who claimed that his supervisor unlawfully assigned him extra duties beyond those required by his position and subsequently evaluated his performance as merely "meet standards," regardless of the fact that he performed outstandingly his contractual duties. The employer attending the mediation acknowledged that the supervisor's subjective evaluation was erroneous but maintained that the error contained no evidence of actual or intentional discrimination. Nevertheless, the employer was amenable to settling the claim for an amount less than what it would take to litigate the matter.

In explaining his position, the Complainant took an inordinate amount of time to express his "feeling" rather than articulating a factual chronology. Among other things, Complainant expressed that he

had been loyal to the company; that he had used his skills and knowledge to the best of his ability for the company, which he considered not only as his employer but also as a savior since it hired him shortly after he arrived penniless in America. To him, the "meet standards" evaluation violated his honor and self-respect. By exhibiting empathy and patience in accommodating the Complainant with the time he needed to express all his intuitive concerns, the mediator was successful in getting the parties to a formal agreement without a financial component.

In addition, there are intrinsic factors exhibited by Asians--particularly those who came from a former Communist government--if not recognized and accommodated, could hamper the mediation session. These factors are often a product of the Asians' past experience with the legal system in their homeland. Asians from mainland China and Southeast Asia perceive the court and all its affiliated personnel as part of a large, authoritarian government. To them, public officers associated with the legal system are ruthless, corrupt, deceptive, insensitive, and bribery-prone (Knee, 1985; American Council for National Service, 1986). This factor triggers an immediate fear and distrust reaction in Asian Complainants when they are asked to attend any process that, in their view, is legally oriented.

A recent study of ethno-violence in Boston found that, many Southeast Asian victims of bias crime, particularly female, do not report the incident, as they believe that either it was not sufficiently serious or the legal system cannot do anything about it. Thus, in the majority of cases of bias-motivated crime that were reported, there had been a prior history of illegal conduct, over a long period of time, which had gone unreported by the victim (McDevitt,

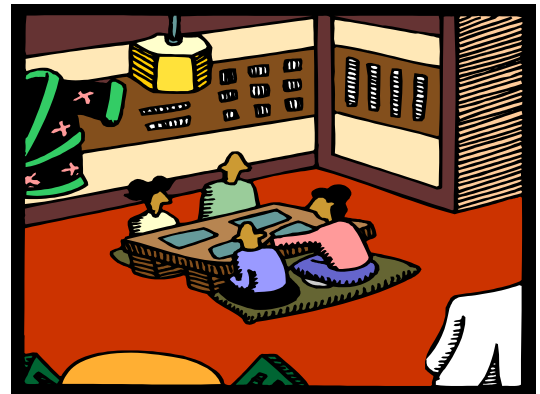
Northeastern University, 1988). Furthermore, even if a complaint is made, there is a slim chance that the victim would participate further in subsequent proceedings out of concern for personal safety or job stability (American Council for Nationalities Service, 1986).

In the context of mediation, while some Southeast Asian may agree to attend a mediation session, they tend not to tell the whole story even though they are not the accused. The tendency to conceal relevant facts is often, as noted above, the result of their distrust for public processes and misperception that the mediation is only an interrogation session in disguise.

Another actual mediation session conducted at the MCAD should highlight this point. The matter involved a Southeast Asian Complainant who had spent over ten years in the Vietnamese Communist “re-education camps” before coming to the U.S. During the employer’s oral summary of its position, the Complainant silently and repeatedly shook his head and maintained his eyes downward. When it was his turn to elaborate his position, the Complainant refused to talk despite the mediator’s repeated requests. A short break was called while the mediator privately caucused with the Complainant. Only then did the mediator discover that the session reminded the Complainant of the daily interrogation to which he was subject during his unjust imprisonment. Complainant was fearful that any statements he made would somehow be used against him later on, as he had experienced before. After conferring with the employer, the mediator moved the session to another location outside of the government building and without any discernible element of false authority. The mediator was then able to resume a productive mediation.

Given the fact that (1) no party can be forced into an agreement, (2) all parties come to a mediation session voluntarily and can terminate it at any time, and (3) the ultimate role of the mediator is to help involved parties to reach a mutually agreeable solution, a working knowledge of the parties’ intrinsic and cultural traits and an ability to innovatively accommodate them could only enhance a better chance of a successful mediation.

Quoc Tran
October 28, 2004



Highlights of Some Cases Recently Closed by the Commission



The Cambridge Human Rights Commission handles discrimination complaints in three areas---public accommodation, employment, and housing. Issues involved in each area vary greatly. A review of some recently closed cases would provide an insight on the Commission's enforcement work.

In the employment area, there are three cases worthy of note. In the first one, an over-40-year-old Complainant alleged that her employer, a large hospital, did not allow her to return to her former position after a disability leave. She believes that Respondent's action constituted an act of discrimination against her on the bases of disability and age. While the Commission did not find sufficient evidence regarding Complainant's age claim, it did find that there was probable cause that Respondent discriminated against her on the basis of disability. Subsequently, the MCAD adopted the Commission's finding and agreed to prosecute the Respondent on behalf of the Complainant.

In the second case, a woman of Chinese descent alleged that her employer, another large Hospital in Cambridge, discriminated against her on the basis of national origin when it failed to award her a promotion for which she was qualified and had applied. During investigation, the Commission was able to encourage the parties to settle the matter amiably.

In the third case, a Caribbean-origin employee of a large University alleged that the school discriminated him when it failed to hire him for a full-time position. Despite the fact that the Commission found, through investigation, that the position at issue was a unionized position, which the Respondent legitimately awarded to another employee with more seniority, the Commission was able to persuade the employer to give Complainant another comparable position.

In housing area, three recently closed cases are also worthy of note. In the first one, a man of Cape Verdean origin who held a Section 8 voucher alleged that a landlord, through its agent, discriminated against him on the bases of national origin and source of income when the agent failed to rent him an apartment. After an investigation, the Commission found sufficient evidence to conclude that Respondent may have discriminated against Complainant as alleged. Subsequently, the Commission was able to conciliate the matter in which Respondent not only agreed to pay Complainant \$30,000 but also to comply with the Commission's corrective requirements.

In the second case, a woman with mental disability alleged that a housing agency failed to reasonably accommodate her in her effort to seek housing. While the Respondent may have a legitimate reason for its action, the Commission did find that Respondent did not do enough with respect to Complainant's reasonable accommodation request. It subsequently issued a finding of probable cause on behalf of the Complainant. The Respondent then removed the matter to court for a hearing. The case is pending in Court where the Complainant's case will be prosecuted by the State Attorney General's office.

The third case is an important one. Upon receipt of information that there are several realty offices in Cambridge that may have practiced discrimination against prospective tenants with children, the Commission contracted a professional testing agency to test the named realtors. Once the Commission received results from the tests, which indicated that a Cambridge realtor might have engaged in discriminatory practice, it initiated an investigation against the realtor. The realtor subsequently agreed to comply with an array of corrective actions ordered by the Commission.

Lastly, in the area of public accommodation, one recently closed case deserved mention. The Complainant, a woman with disability, alleged that a Cambridge bar discriminated against her when it denied her entry because she had a dog, although she informed Respondent that her dog was a service animal. Respondent reasoned that it denied her entry due to the requirements of the City's sanitary code, and that the dog did not wear any paraphernalia indicating it was a service dog. Investigation revealed that the law does not require service animals to wear harness or any visible paraphernalia. It only requires that, if asked by employees of establishments that serve the public the person accompanied by a service animal needs only to declare whether or not it is a service animal in order to gain entrance. Therefore, Respondent did not have a legitimate defense for refusing to allow the dog to enter the establishment. The matter was referred to the Massachusetts Commission Against Discrimination for prosecution.



These are just a few of the cases the Commission has investigated and closed. If you would like to receive more information on the work of the Commission, you could visit our website at www.cambridgema.gov or call 617-349-4396 and ask for a brochure.

Student Winners of this Year's Fair Housing Contest



Elizabeth Amado, a 6th grade student at the Amigos School, shows her award-winning poster.



Alex Cherenfant, Jr., a 7th grade student from the Morse School, receives award from Mayor Michael A. Sullivan for his first prize winning essay.

Fair Housing Winning Essays

First Prize



DON'T BE PUZZLED: FAIR HOUSING IS THE ANSWER

By Alex Cherenfant, Jr.

Imagine if you lived in a country where the streets were lined with people. They couldn't get a house or an apartment, because the landlords had different racial, sexual, or other preferences. This would be the case without fair housing laws.

What are fair housing laws? Fair housing laws are laws that require landlords to give or rent a property to someone, regardless of their race, sexual orientation, or gender. They are important because if we didn't have them, people would be discriminated against. Many landlords discriminate people because of their sexual orientation. Without these laws, a gay or lesbian couple would probably find it hard to rent an apartment or to get a house. Thankfully fair housing laws give them the right to live wherever they please.

Also, without these laws, people with children may be turned down at apartments. If a landlord doesn't want to have children in the apartment, they might say it has lead paint. According to the law, the landlord has to de-lead the apartment.

These are the reasons fair housing laws are important, because without them, we would have more homeless people on the street.

Second Prize



Don't be Puzzled, Fair Housing is the answer

By Kendall Allen

Everyone is entitled to fair housing. Nobody should be discriminated against. If you are being discriminated against, about anything, you can file a report at The Fair Housing Commission. They are located on Inman Street. They will help you out.

If there were no fair housing laws, a lot of people would be out of a home. Many landlords discriminate on things such as: race, sexual orientation, marital status, economic status, the number of children you care for, age, Religion, or anything else.

If there were no fair housing laws, landlords would be able to discriminate more. No one could file a case, because discrimination would be legal. No one would know that what was happening was discrimination. They wouldn't be able to fight back.

Nobody has the right to tell you that you can't afford a house, especially when you haven't told them the price yet. This is a form of discrimination. They might be saying that because of you're sex, race, marital status, or anything else. They might say that because of your situation, you look like you can't afford the house.

If someone kicks you out of your house, you have the rights to know why. It might be a form of discrimination. You can ask face to face "why?" You could also write a letter. If your landlord doesn't have a good answer, you could sue.

Everyone has the right to fair housing. Discrimination is wrong, and it needs to be stopped. Nobody has the right to tell you that you cannot have the house of your dreams.

These essays have been typed exactly how the students submitted them.

NATIONAL FAIR HOUSING MONTH CELEBRATION

Every year the Cambridge Human Rights Commission celebrates National Fair Housing Month in the month of April with a poster and essay contest for students in Cambridge Schools.

The Commission staff contacts the school's arts and language teachers and offers Fair Housing training to students in grades 6 through 8. Students participate in the interactive training, which prepares them for the poster and essay contest. Each year a substantial number of students participate in the contest. This year's theme was "Don't be Puzzled; Fair Housing is the Answer". The Commission staff requests donations of prizes from different businesses, which are awarded to the winners. This year for the first time we even received donations from the Boston Red Sox and Boston Celtics. We encourage students to participate next year.



LEAD PAINT LAW

by Sonja DeWitt

Lead paint is a serious problem in Cambridge. According to the 1990 census, ninety percent of housing in Cambridge was built before 1978, and therefore, is likely to contain lead paint. Lead paint is a severe threat to public health, particularly the health of young children under 6. Lead poisoning can permanently damage the internal organs of young children and can lead to learning and behavioral difficulties. Because this threat is so serious, Massachusetts has enacted stringent laws to protect children under six from lead poisoning. Unfortunately, there is widespread misunderstanding and even disregard of these laws in the City of Cambridge.

Rights of Tenants and Prospective Tenants

The Lead Paint Law in Massachusetts requires that in all housing units occupied by children under six, the landlord must remove, or otherwise properly contain, any lead paint. This requirement also applies where a family with children under six applies for and is qualified to rent the unit. The law strictly forbids landlords from refusing to rent and real estate agents from refusing to show, units containing lead paint to a family because they have children under the age of six. In Cambridge, there appears to be significant resistance to complying with this statute. This resistance is making it very difficult for many young couples with children, even professional couples with high-income levels, to rent an apartment in Cambridge.

Any prospective tenants with children under six, who have been denied the opportunity to rent or even to be shown apartments containing lead, should consider the possibility that they have been discriminated against. This is particularly true if they have good credit records, meet income requirements, and are otherwise qualified to rent the apartment of their choice. Any statements made by real estate agents or landlords such as “We won’t show (or rent) apartments containing lead to

families with children under six,” are discriminatory on their face.

The law also forbids landlords from evicting a family because they have children under the age of six. This is also a discriminatory action for which the landlord is liable. In addition, the landlord of an apartment containing lead is liable for extensive damages if a child in the unit develops lead poisoning.

Any tenant or prospective tenant of a housing unit in Cambridge who believes he or she is the victim of discrimination because of a child under six should contact the Cambridge Human Rights Commission at 349-4396. The Commission can answer questions about the law and can file a legal complaint against the party, which discriminated. In addition to compensating the victims of such discrimination, the formal complaint process can be a means of forcing landlords to take affirmative actions to stop and to prevent acts of discrimination.

Obligations of Landlords

As stated above, Massachusetts’s law has set strict legal requirements to protect children from lead poisoning. Landlords are strictly liable for lead poisoning of children who live in units with lead. This threat of liability and the cost of deleading have led to reluctance on the part of landlords to rent to families with children under six. However, for a landlord to refuse to rent his or her apartment to families with young children does not remove the threat of liability. Another provision of the Lead Paint Law is that any landlord who evicts tenants or refuses to rent property to prospective tenants because they have children, engages in unlawful discrimination in violation not only of the Lead Paint Law but also the Discrimination Statute, Chapter 151B. Remedies for such violations include the difference between the price of the property sought and property which is later bought

or rented, incidental costs and fees caused by the discriminatory action, such as moving expenses and real estate fees, fines for violations, and emotional distress damages.

The only way for a landlord to avoid liability for lead poisoning is to work with the state to remove or properly cover the lead paint in his or her units. The liability rules become even more stringent, due to a Superior Court case in which the judge ruled that no properties are exempt from liability under the Lead Paint Statute, even if those properties are exempt from Chapter 151B. This means that even if a landlord lives in a building and rents only one other unit, he or she is still liable if the rented unit contains lead.

There are two forms of compliance with the statute. The first is called interim controls. This is a temporary measure, which protects the landlord from liability for no more than two years. To get a Letter of Interim Controls from the state, the landlord must get a licensed Risk Assessor to inspect the unit to determine what temporary measures can be taken to protect resident children from lead poisoning. Such measures may include removing lead dust, correcting structural defects such as water leaks, which can cause lead paint to crack or peel, and making sure that any lead paint in the unit is intact. Interim controls may also involve deleading badly deteriorated painted surfaces. When the required remedial actions are completed, the Risk Assessor must inspect the unit again, and if it passes the inspection the landlord will receive a Letter of Interim Controls. This letter will protect the landlord from legal liability for lead poisoning for one year. At the end of one year the letter may be renewed for an additional year. After the second year, the landlord must bring the unit into full compliance with the statute by deleading or encapsulating any lead paint, and receiving a Letter of Full Compliance.

To receive a Letter of Full Compliance, a landlord must remove or encapsulate the lead paint in the unit. Encapsulation is usually the cheaper option. Encapsulation cannot be used on surfaces, which are badly deteriorated, exterior surfaces, or surfaces, which are walked on or otherwise subject

to friction. The other option for complying with the Lead Paint statute is complete removal of the lead paint. This must be done by Licensed Deleaders.

Deleading can be expensive. Fortunately, there are resources available for landlords who want to delead. One such resource within Cambridge is Lead-Safe Cambridge. This organization provides up to \$10,000 in a deferred payment loan to delead properties where the tenants meet the income guidelines applicable to Section 8 subsidies. Landlords whose apartments are empty are also eligible, if they are willing to agree to rent the delead unit or units to low-income tenants at Section 8 rent rates. The entire deleading process, including inspection, the actual deleading, relocating current tenants, and monitoring after the deleading, is covered by Lead Safe. Landlords who go through the process then agree to rent to low-income tenants at Section 8 rents for five years. At the end of five years, if the landlord has complied with this agreement, the loan is forgiven.

Other resources also exist for landlords. For landlords who meet applicable guidelines, the Massachusetts Home Finance Agency provides fully amortizing loans at 3% interest. In addition, other commercial loans are available at special interest rates for the owners who want to delead. For more information on deleading options available, contact Lead-Safe Cambridge at 349-5323.

Obligations of Real Estate Agents

Real estate agents cannot discriminate in showing, taking applications, or any other service, which they provide because the family which wants to rent, has children under six. An agent cannot refuse to show apartments containing lead to such families, regardless of the wishes of the landlord. If the agent does so, he or she is guilty of discrimination, and the agency is liable for the damages caused by the discrimination, including emotional distress. In some cases, the real estate agent may be liable even in cases in which the subject property is exempt from the law. This is particularly true if the agent makes discriminatory statements.

Discrimination Against Section 8 Recipients

by Barbara Siegel

"I don't take Section 8." This simple statement by landlords and realtors has made finding affordable housing extremely difficult for many tenants throughout Massachusetts. This article will give a brief overview of what the Section 8 program is and how it works, and will then discuss Section 8 discrimination, the legal rights of Section 8 tenants, and where tenants can go if those rights are violated.

What is Section 8?

At its core, Section 8 is a program funded by the federal government to help people with lower incomes, seniors and people with disabilities pay their rent. It was created by Congress in 1974 – during the Nixon administration – and has been called one of the most successful housing programs in terms of making housing affordable and preventing homelessness.

The term "Section 8," as the program is commonly called, is short for the Section 8 *Housing Choice Voucher Program*. Through the Section 8 program, the tenant gets a piece of paper called a "voucher" that they can use to get help paying the rent in an apartment they find on the private market. Because Section 8 helps pay for or subsidizes the tenant's rent, it is called a subsidy.

Section 8 vouchers involve relationships among 4 main players:

(1) The federal government. The money for Section 8 subsidies comes from the federal government, through the Department of Housing and Urban Development (HUD). HUD sets the broad rules of the Section 8 program.

(2) Local housing authorities and regional housing agencies. Local housing authorities and regional housing agencies enter into contracts with HUD and administer the Section 8 program in their areas. This means that they take applications for

Section 8 vouchers, decide who is eligible, distribute vouchers, inspect apartments, calculate the tenant's rent, pay the government's share of the rent to the landlord, and monitor the tenancy to ensure that both landlord and tenant are following the rules.

(3) Tenants. Tenants get their Section 8 vouchers from local housing authorities, and local housing authorities can take them away if the tenant violates the Section 8 rules. Tenants find apartments on the private market and enter into rental agreements with private landlords.

(4) Private landlords. Private landlords screen and select tenants to rent to. These landlords enter into 2 different legal agreements: a rental agreement with the tenant and a housing assistance payment (HAP) contract with the local housing authority or agency. For each apartment, the landlord gets rent payments from both the tenant and the local housing authority. Apartments must meet certain quality standards, similar to the state sanitary code, before local housing authorities will enter into payment contracts with landlords.

How Does Section 8 Work?

Section 8 makes housing affordable because tenants who have Section 8 vouchers only pay 30% to 40% of their income toward the rent each month. For example, if a tenant makes \$1000 a month and the rent is \$1000/month, the tenant will pay 30% of it, or \$300, toward rent. The government, through the housing authority, pays the remaining \$700.

There are limits on what the government will pay, however. These limits are called payment standards. In Cambridge in 2004, the payment

standard for a 1-bedroom apartment is \$1135 a month. The most the government will pay toward the rent is the difference between the payment standard and the tenant's minimum rent payment of 30% of his or her income. If the rent is higher than the payment standard, the Section 8 rules allow tenants to pay up to 40% of their income toward rent, but not more. As a result, it is financially impossible for low-income tenants to use their Section 8 vouchers in apartments with rents much higher than the payment standard.

Obstacles to Using Section 8 Vouchers

In areas where the rents are high and the payment standards are low, tenants with limited incomes can have a difficult time finding apartments where they can use their Section 8 vouchers. If a tenant cannot use a Section 8 voucher within a certain period of time, he or she will lose the voucher. This problem is about to get worse because of new rules issued by HUD that lower the Section 8 payment standards.

Despite these limitations, Section 8 vouchers do help a lot of people and they are in high demand. There are not nearly enough Section 8 vouchers for everyone who needs them. Currently in Massachusetts, there are about 65,100 Section 8 Housing Choice vouchers in use, but there are also at least 48,000 people on waiting lists to get Section 8 vouchers. Recent funding cuts by HUD threaten to make this problem worse.

One of the greatest obstacles to tenants using their Section 8 vouchers is discrimination by landlords, realtors and rental agents. Countless tenants have seen rental agreements fall apart when the landlord or realtor learned they had a Section 8 voucher. Why is there Section 8 discrimination? Some likely causes are misconceptions about the Section 8 program and Section 8 tenants, prejudice against people with lower incomes and people with disabilities, and an unwillingness to maintain rental properties in a condition that would meet the Section 8 housing quality standards.

Protections Against Section 8 Discrimination

Regardless of the cause, Section 8 discrimination is illegal in Massachusetts. Massachusetts state law and the Cambridge Fair Housing Ordinance both make it illegal to discriminate against a tenant on the basis of his or her rental subsidy or receipt of public assistance. Interestingly, there is no federal law against Section 8 discrimination.

A blanket policy against renting to people with Section 8 vouchers is clear discrimination and is illegal. Occasionally landlords and realtors will admit such a policy, but often the discrimination is more subtle. A typical scenario is that a landlord, not knowing that a tenant has a Section 8, agrees to rent to the tenant, but then learns about the Section 8 and suddenly claims that the apartment is not available. Liability for Section 8 discrimination is not limited to landlords and realtors. If a newspaper advertises an apartment for rent and the ad indicates "no Section 8s," the newspaper may be liable for discrimination.

Not every failure to rent to a tenant with a Section 8 is discrimination. If the rent on a property is much higher than the housing authority's payment standard and the tenant does not have the income to make up the difference, the landlord does not have to rent to that tenant. A landlord can also refuse to rent to a tenant for legitimate reasons such as a bad reference from a past landlord, as long as the reason is not a pretext for discrimination. Also, the laws against Section 8 discrimination do not apply to owner-occupied 2-family houses.

Where to go for help

Section 8 voucher holders who think they have been discriminated against because of their subsidy have a number of options. Cambridge residents can file a complaint with the Cambridge Human Rights Commission. People in other cities and towns should check to see if they have a local agency that takes these complaints. All Massachusetts residents can file a complaint with the Massachusetts Commission Against Discrimination.

These agencies will investigate complaints, mediate between the parties, and hold hearings where appropriate. Sometimes they will conduct tests, using testers posing as prospective tenants, to try to determine if a landlord is discriminating. They can award money damages and order landlords to comply with the law. A Section 8 discrimination claim filed with and mediated by the Cambridge Human Rights Commission recently settled for \$30,000.

Tenants may also go to court to try to get a court to order the landlord not to rent the property while the

discrimination complaint is being investigated. The housing authority that issued the Section 8 voucher should provide tenants information and help taking legal action to protect their rights. Some legal services offices provide free legal assistance to tenants in housing discrimination cases.

Knowledge is power, as the saying goes. Tenants who know their rights have the power to protect themselves from discrimination and ensure equal access to housing.

Newsletter Produced by: Carmen S. Negrón



The Cambridge Human Rights Commission does not discriminate on the basis of disability. The CHRC will provide auxiliary aids and services, written materials in alternative formats, and reasonable modifications in policies and procedures to persons with disabilities upon request. Our office is wheelchair accessible, and the TTY phone number we can be reached at is 617-492-0235.



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